



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,007	11/21/2001	Judith C. Clark	040094/0101	9546

22428 7590 03/11/2003

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

SPERTY, ARDEN B

ART UNIT	PAPER NUMBER
----------	--------------

1775

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-5

**Office Action Summary**

Application No.

09/989,007

Applicant(s)

CLARK, JUDITH C.

Examiner

Arden B. Sperty

Art Unit

1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-39 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-14, 21-29, 34, 37-43, drawn to attachment devices, classified in class 428, subclass 100.
  - II. Claims 15-17, 35 and 36 drawn to a storage device, classified in class 428, subclass 221.
  - III. Claims 18-20, drawn to a reusable object comprising a container, classified in class 428, subclass 34.1.
  - IV. Claim 30, drawn to an object with a magnetic portion, classified in class 428, subclass 99.
  - V. Claim 31, drawn to a floral card holder, classified in class 40, subclass 124.06.
  - VI. Claim 32-33, drawn to a floral vase holder, classified in class 248, subclass 311.2.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are attachment devices and storage devices.
3. Inventions I and III are unrelated. In the instant case the different inventions are attachment devices and reusable container objects.
4. Inventions I and IV are unrelated. In the instant case the different inventions are attachment devices and objects with magnetic portions.

Art Unit: 1775

5. Inventions I and V are unrelated. In the instant case the different inventions are attachment devices and a floral card holder.
6. Inventions I and VI are unrelated. In the instant case the different inventions are attachment devices and a floral vase holder.
7. Inventions II and III are unrelated. In the instant case the different inventions are storage devices and reusable container devices.
8. Inventions II and IV are unrelated. In the instant case the different inventions are storage devices and objects with magnetic portions.
9. Inventions II and V are unrelated. In the instant case the different inventions are storage devices and a floral card holder.
10. Inventions II and VI are unrelated. In the instant case the different inventions are storage devices and floral vase holders.
11. Inventions III and IV are unrelated. In the instant case the different inventions are reusable container devices and objects with magnetic portions.
12. Inventions III and V are unrelated. In the instant case the different inventions objects with magnetic portions and floral card holders.
13. Inventions III and VI are unrelated. In the instant case the different inventions are objects with magnetic portions and floral vase holders.
14. Inventions IV and V are unrelated. In the instant case the different inventions are objects with magnetic portions and floral card holders.
15. Inventions IV and VI are unrelated. In the instant case the different inventions are objects with magnetic portions and floral vase holders.

Art Unit: 1775

16. Inventions V and VI are unrelated. In the instant case the different inventions are floral card holders and floral vase holders.

17. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

18. Because these inventions are distinct for the reasons given above and the search required for any one Group is not required for any other Group, restriction for examination purposes as indicated is proper.

19. In the event that Group I is elected, Applicant must choose one of the following patentably distinct species of the claimed invention:

Species 1: claims 1-2, 34, 37, 38 drawn to an attachment mechanism having a first adhering unit;

Species 2: claims 8, 9, 12 drawn to an attachment device having an affixing element;

Species 3: claims 10, 11, 13 drawn to an attachment device with an elastic band;

Species 4: claims 14 and 24-27 drawn to an ornamental ribbon device;

Species 5: claims 28, 29, 43 drawn to an attachment device having a card and perforations;

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 3-7, 21-23, and 39-42 are generic.

Art Unit: 1775

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

20. A telephone call was made to Phillip Articola on February 25, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Art Unit: 1775

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arden B. Sperty whose telephone number is 703-305-3143. The examiner can normally be reached on M-R, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 703-308-3822. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



abs

February 25, 2003

  
DEBORAH JONES  
SUPERVISORY PATENT EXAMINER